

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF  
MASSACHUSETTS, et al.

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH,  
et al.

Defendants.

Case No.: 1:25-cv-10338-AK

ASSOCIATION OF AMERICAN  
MEDICAL COLLEGES, et al.

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH,  
et al.

Defendants.

Case No.: 1:25-cv-10340-AK

ASSOCIATION OF AMERICAN  
UNIVERSITIES, et al.,

Plaintiffs,

v.

DEPARTMENT OF HEALTH AND  
HUMAN SERVICES, et al.

Defendants.

Case No.: 1:25-cv-10346-AK

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* CITIES, COUNTIES,  
AND MAYORS IN SUPPORT OF PLAINTIFFS' MOTIONS  
FOR TEMPORARY RESTRAINING ORDER**

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Dated: February 19, 2025

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*Counsel for Amici Curiae*

Proposed *Amici Curiae* Cities, Counties, and Mayors move for leave to file an amicus brief in support of Plaintiffs’ motions for temporary restraining order in these three related cases. In furtherance of the motion, Proposed *Amici* state as follows:

1. Led by the City of Boston, Massachusetts, the City of Cleveland, Ohio, the Metropolitan Government of Nashville and Davidson County, Tennessee, the Mayor of Gainesville, Florida, and the Mayor of Salt Lake City, Utah, the Proposed *amici* are 45 cities, counties, and mayors representing jurisdictions from across the country, including from 24 different states.

2. They support Plaintiffs’ motions for temporary restraining order because they, too, will be harmed by the Notice Number NOTOD-25-068, Supplemental Guidance to the 2024 NIH Grants Policy Statement: Indirect Cost Rates (the “Rate Change Notice”) that is the subject of Plaintiffs’ lawsuits.

3. The Court has authority to grant leave to file an amicus within its “sound discretion.” *Strasser v. Doorley*, 432 F.2d 567, 569 (1st Cir. 1970); *see also Portland Pipe Line Corp. v. City of S. Portland*, No. 2:15-CV-00054-JAW, 2017 WL 79948, at \*4 (D. Me. Jan. 9, 2017) (granting leave to file brief where the proposed *amici* “represent third parties whose particular interests may be affected by the Court’s ruling and whose particular interests are echoed in broader public interests”).

4. The proposed brief will assist the Court in its consideration of the pending motion by presenting additional relevant information squarely within the issues before this Court.

5. Local governments face immediate harms from the Rate Change Notice that overlap yet are distinct from the harms that institutions, organizations, and states must confront.

Some are indirect recipients of NIH funding. Additionally, all *amici* jurisdictions run, closely partner with, or greatly benefit from the health facilities and institutions in their communities.

6. Local governments will be severely injured by the arbitrary loss of funding by anchor institutions in their communities. *Amici* will bear the brunt of their residents' job losses, decreased spending in their local business, and depressed economy leading to a gutted tax base.

7. Defendants threaten the funding of the essential and life-saving institutions in their communities. These institutions provide health care to the residents living in *amici* jurisdictions, perform vital research for both their local regions and beyond, and act as engines for the economy that attract talent and innovation to their communities.

8. Proposed *amici* offer the Court additional insights about the broad reliance interests in NIH funding and why the agency action is both arbitrary and capricious and contrary to law. In addition, the impacts on local jurisdictions demonstrate that the public interest will be served by a nationwide injunction.

9. Counsel for proposed *amici* have conferred with counsel for the parties, and the motion is unopposed. Plaintiffs have consented to the filing and Defendants do not object the request for leave to file.

10. A true and correct copy of the proposed brief has been submitted with this motion.

### CONCLUSION

For the foregoing reasons, Proposed *Amici Curiae* Cities, Counties, and Mayors respectfully request the Court grant the motion for leave to file the attached brief.

Respectfully submitted,

/s/ Jonathan B. Miller

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**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the foregoing was this day served on all counsel via the court's electronic service system.

/s/ Jonathan B. Miller

Jonathan B. Miller (BBO#663012)

Dated: February 19, 2025